

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A
JUDGE, No. 04-239,

JUDGE RICHARD H. ALBRITTON, JR.

Florida Supreme Court
Case No. SC05-851

AMENDED NOTICE OF FORMAL CHARGES

TO: The Honorable Richard H. Albritton, Jr.
Circuit Judge
Fourteenth Judicial Circuit
Post Office Box 2237
Panama City, Florida 32402-2237

YOU ARE HEREBY NOTIFIED THAT the Investigative Panel of the Florida Judicial Qualifications Commission, by a vote of not less than two-thirds of those members at its meeting held in Tampa, Florida on February 11, 2005, pursuant to Rule 6(f) Florida Judicial Qualifications Commissions Rules ("FJQCR"), as revised, and Article V, Section 12(b) of the Florida Constitution, that probable cause exists for formal proceedings to be instituted against you on the following charges:

FACTUAL ALLEGATIONS

1. On or about May 14, 2004, in a telephone call which you initiated, you advised Jennifer D. Wells, Court Administrator for the Fourteenth Judicial Circuit, that you do not want her to work with you or to do anything associated with you or your office. You further told her that if necessary, you would enter an order barring her from your office and from doing anything concerning you, and that you would find her in contempt if she disobeyed the order. You also told her that she should not go to Chief Judge Judy Pittman and tell her about the call, and that if she did, she did not want to know what you would do.

2. Despite three requests, you failed to respond to a fax message from the Florida Department of Corrections dated May 6, 2004, requesting clarification of the sentence you imposed on Otha Lee Abney, Jr., DOC Number 583365.

3. In February 2003, you advised Kara Berlin, Trial Court Staff Attorney, in the Jackson County Courthouse, not to talk with assistant state attorneys.

4. At various times between February 2003 and February 2004, during breaks in trials, you entered and sat in the public defender's office in the Jackson County Courthouse in your robe.

5. During the same time period, you required as a condition of probation that a defendant attend church. When advised by the staff attorney that this was unconstitutional, you responded, "I know that's wrong, but the defendant doesn't know it."

6. In the case of Walter Anthony Hayes, in which Hayes had served six months in jail, there was an ineffective assistance of counsel hearing. You granted a portion of the defense request for ineffective counsel and granted the defendant a new trial. In a meeting with an assistant state attorney and defense attorney, the prosecution offered Hayes a settlement of ten years in prison and you said, "I'll give him seven", and imposed that sentence.

7. In or about 2004, a female probation officer recently went through a divorce and at the end of a hearing, while people were still in the courtroom, you asked her about her divorce.

8. In a juvenile delinquency case involving a female defendant in court who had turned 18, but who had committed a crime when she was a juvenile, you made a comment from the bench as to how attractive she was. You then gave her a lighter sentence than you ordinarily would have given.

9. On an ongoing basis, you are late to hearings and trials. For example, when a matter is noticed for 1:30 p.m., it will typically not begin before 2:30 p.m. You also take

purportedly short breaks of fifteen minutes and do not return for as much as one to two hours. This often results in the proceedings going beyond normal closing time.

10. Following a pattern, you inquire of mothers, “What are your drugs of choice?”, in open court when this has nothing to do with the matter in question. You do this to humiliate female defendants. For example, you will say, “Once a drug addict, always a drug addict”, to a female in open court, or, “I think you should get a 40 hour a week job.”

11. During a hearing in In the Interest of Angel Pope, Jackson County Case 2002-136-CJ, on September 4, 2002, you put a young mother in a holding cell for most of the day because she could not recall what her address was.

12. A teenage girl had been charged with a crime and had served time in juvenile detention. The girl told you she was pregnant. You asked her who the father was and when she wouldn’t tell you, you put her back in juvenile detention and said she could stay there until she told you who the father was.

13. In In the Interest of Kah Kahlia Guilford, Jackson County Case Number 02-175-CJ, you jailed a young mother who came before you on a dependency court hearing after stating that she had had contact with the other party in the domestic violence matter. The attorney for the mother objected as she had no notice that the domestic violence matter would come up. You jailed her for 15 to 20 days.

14. You are often very demeaning to attorneys, and especially DCF attorney Tara Melton, Esquire, who is of African-American ancestry.

15. For example, when you first went to the bench, you asked Ms. Melton what church she attended and remarked that “your people helped me get elected.” Melton responded, “Who are my people?”, and you replied, “Black people”. This was said in front of Ms. Melton’s colleagues. At another time when Ms. Melton went into your chambers for a case following a

hearing involving a family also named Melton, you said “Ms. Melton, I just spent the whole day with your people.” She replied, “I don’t recognize anyone from my family”, and you said, “They were in here acting ugly. They must be your people as the last name was Melton.”

16. You repeatedly address Ms. Melton as “Tara” while addressing others as Mr. or Mrs.

17. You would often say to mothers, “Women should be at home with their kids”. Such comments were in fact directed to other working mothers in the courtroom, including attorneys.

18. You said words to Ms. Melton to the effect of, “I’ve never threatened you with a bar complaint”, when in fact you had threatened her twice.

19. From the bench you said, “You know, Mrs. Baker (a case worker), you and I have already talked about this case.” You would tell Department of Children and Families (DCF) workers outside of court how you were going to rule and how to present a case if you didn’t like the people.

20. You told one lady named Tanya Patterson, on the record and in open court, that she needed to close her legs and stop having babies.

21. In a case involving the Goebel family, you had *ex-parte* communications with Ms. Melton. Ms. Melton had concluded that she did not have case as the mother had completed her case plan and they were stipulating that the children go with the mother with supervision. You said “no” to the stipulation, and at a court break, you called Ms. Melton back to your office. You said words to the effect of “that lady is a piece of trash and I know the DCF is offering her a stipulation, but I want her kids adjudicated dependent and I don’t want her to ever get her kids back.” As a result, the case went to trial with DCF having a very weak case and you adjudicated the children dependent.

22. When you first went on the bench, you met with DCF personnel in Panama City so they could get to know you. You offered everyone coffee, except Ms. Melissa Bowers Long. You offered Ms. Long milk saying it was because she was so young.

23. In Marianna, Florida, you said to Ms. Long that you know black ministers in the area and told her that she should try and associate with them. She had told you that her father is a black minister.

24. In dependency cases, when a parent comes before you, you would sometimes ask the person if they were using drugs and if the person said “no”, you might order a drug test on the spot. If the test came back positive, you would hold the person in contempt and have them immediately jailed.

25. You would occasionally ask attorney John Young Roberts about hunting. You stated that during the fall of 2004, you would like to go hunting with him and he said that would be fine. You then asked if he was available that weekend and you went hunting with him.

26. You asked Mr. Roberts if he was a friend of the person that held a Christmas party. Mr. Roberts said he was, and you asked if he could get you an invitation to the party. On the date of the party, your assistant called Mr. Roberts to ask if he could fax the invitation to you. He did so, and you attended the Christmas party.

27. Sometime during the spring of 2004 during a recess while getting coffee, you told Mr. Roberts that you were leaving Jackson County to go to Bay County. You continued by stating that you had enjoyed your time in Jackson County and wanted to see everyone in Jackson County and told Mr. Roberts to throw you a party. You said you wanted the party at the friend’s house where you had gone to the Christmas party. Mr. Roberts did nothing.

28. You would allow your clerk, Sue, to make comments and act like a mini-judge. For example, if you were talking about child support, sue would remark under her breath, but

loud enough for everyone to hear, “Obviously got money for cigarettes.” She would also participate in hearings and would remind you what had happened in a prior hearing. For example, she would say, “remember, this is the guy who last month said ... “.

29. In or about the spring of 2004, Elizabeth Milton Simpson, Esquire, was in your court when you called her up to the bench. You stated, to the effect, “You heard they’re giving me a party. We need people to donate money and you need to give \$100 to Jerry Glass (an investigator for the public defender)”. A day or so later while in court you mentioned the money to her. She then wrote a check, payable to Jerry Glass, gave it Glass and told him to make sure he told you she had paid.

30. Approximately eight months ago, you asked Stephanie Shimer, Esquire, and Ms. Simpson to go to lunch with you. In the case of Taylor Dumas, Case No. 03-06, you had ordered the DCF to directly pay defense attorneys Shimer and Simpson as opposed to the county paying the legal bills as you did not like the case DCF had brought. At lunch you said words to the effect of, “I need you to put this language in your motion and I want you to draft an order saying this”, and then you said what you wanted in the order. You insisted you wanted them to write in down so Ms. Shimer did so. The motion was filed and you issued the order.

31. During court one day you said, “Ms. Simpson, are you taking us to lunch today?” Ms. Simpson said she responded, “I guess so”, and about eight people went to lunch. Ms. Simpson said the bill came to just under \$100 which she paid.

32. You told Ms. Simpson’s husband that you do not have a high opinion of female lawyers. You added, “I am not referring to your wife.”

33. Wade Mercer, Esquire, appeared in a dependency case and after the dependency case was concluded, you said you wanted to talk with him. He went in to your chambers, and

you told him you were concerned that in the hearing there was an objection you thought Mr. Mercer should have made. You continued, “I intend for DCF to prove their case.”

34. While hearing a case tried by Mr. Mercer and Ms. Elizabeth Simpson, you told Ms. Simpson, “If your client doesn’t plead, I’m going to revoke your client’s bail.”

35. In order to avoid *ex parte* communications with you, the public defenders send their investigator, Jerry Glass, to talk with you about pending cases because he is not an attorney.

36. On or about June 15, 2004, at the party for you, Mr. Glass presented you with a gift certificate for \$150.00 from Wal-Mart from the party contributors.

ALLEGED VIOLATIONS OF THE
CODE OF JUDICIAL CONDUCT

1. The acts described in Paragraph 1, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(4), and 3C(1), which are applicable to you as a judge.

2. The acts described in Paragraph 2, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(1), and 3C(1), which are applicable to you as a judge.

3. The acts described in Paragraph 3, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(4), and 3C(1), which are applicable to you as a judge.

4. The acts described in Paragraph 4, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(4), 3B(5), 3B(7), which are applicable to you as a judge.

5. The acts described in Paragraph 5, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(2), and 3B(4), which are applicable to you as a judge.

6. The acts described in Paragraph 6 violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(2), 3B(4), and 3B(7), which are applicable to you as a judge.

7. The acts described in Paragraph 7, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(2), 3B(4), and 3B(5), which are applicable to you as a judge.

8. The acts described in Paragraph 8, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(2), 3B(4), and 3B(5), which are applicable to you as a judge.

9. The acts described in Paragraph 9, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(1), 3B(3), and 3C(1), which are applicable to you as a judge.

10. The acts described in Paragraph 10, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(2), 3B(4), and 3B(5), which are applicable to you as a judge.

11. The acts described in Paragraph 11, 12 and 13 violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(1), 3B(2) 3B(4), 3B(5), and 3B(7), which are applicable to you as a judge.

12. The acts described in Paragraph 14, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(2), and 3B(5), which are applicable to you as a judge.

13. The acts described in Paragraph 15, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(2), 3B(4), and 3B(5), which are applicable to you as a judge.

14. The acts described in Paragraph 16, violated the Code of Judicial Conduct, Canons 1, 2A, 2B, 3A, and 3B(4), and 3B(5), which are applicable to you as a judge.

15. The acts described in Paragraph 17, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(2), 3B(4), and 3B(5), which are applicable to you as a judge.

16. The acts described in Paragraph 18, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(2), 3B(4), 3B(5), which are applicable to you as a judge.

17. The acts described in Paragraph 19, violated the Code of Judicial Conduct, Canons 1, 2A, 2B, 3A, 3B(2), 3B(4), 3B(5), 3B(7), and 3C(1), which are applicable to you as a judge.

18. The acts described in Paragraph 20, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(2), 3B(4), and 3B(5), which are applicable to you as a judge.

19. The acts described in Paragraph 21, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(2), 3B(4), 3B(5), and 3B(7)(1), which are applicable to you as a judge.

20. The acts described in Paragraph 22, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, and 3C(1), which are applicable to you as a judge.

21. The acts described in Paragraph 23, violated the Code of Judicial Conduct, Canons 1, 2A, 2B, 3A, 3B(4), 3B(5), 3B(7), and 3C(1), which are applicable to you as a judge.

22. The acts described in Paragraph 24, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(1), 3B(2), 3B(4), and 3B(7), which are applicable to you as a judge.

23. The acts described in Paragraph 25, violated the Code of Judicial Conduct, Canons 1, 2A, 2B, 4A and 5A, which are applicable to you as a judge.

24. The acts described in Paragraph 26, violated the Code of Judicial Conduct, Canons 1, 2A, 2B 3A, 3B(2), 3B(7), 4A and 5A, which are applicable to you as a judge.

25. The acts described in Paragraph 27, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 4A and 5A, which are applicable to you as a judge.

26. The acts described in paragraph 28, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(2), 3B(4), 3C(1), and 3C(2), which are applicable to you as a judge.

27. The acts described in Paragraph 29, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(2), 3B(4), 3B(5), 3B(7), 4A and 5A, which are applicable to you as a judge.

28. The acts described in Paragraph 30, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(2), 3B(4), 3B(5), 3B(7), 4A and 5A, which are applicable to you as a judge.

29. The acts described in Paragraph 31, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(2), 3B(4), 3B(5), 3B(7), 4A and 5A, which are applicable to you as a judge.

30. The acts described in Paragraph 32, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(2), 3B(4), and 3B(7), which are applicable to you as a judge.

31. The acts described in Paragraph 33, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(2), 3B(4), 3B(5), and 3B(7), which are applicable to you as a judge.

32. The acts described in Paragraph 34, violated the Code of Judicial Conduct, Canons 1, 2A, 3A, 3B(2), 3B(4), 3B(5), and 3B(7), which are applicable to you as a judge.

33. The acts described in Paragraph 35, violated the Code of Judicial Conduct, Canons 1, 2A, 2B, 3A, 3B(2), 3B(4), 3B(5), and 3B(7), which are applicable to you as a judge.

34. The acts described in Paragraph 36, violated the Code of Judicial Conduct, Canons 1, 2A, 2B 3A, 3B(2), 3B(4), 3B(5), 3B(7), 4A and 5A, which are applicable to you as a judge.

35. These acts, would impair the confidence of the citizens of this state in the integrity of the judicial system, and in you as a judge; would constitute conduct unbecoming of a member of the judiciary; would demonstrate your present unfitness to hold the office of judge; and would warrant discipline, including, but not limited to reprimand, fine, suspension with or without pay, and/or your removal from office, and lawyer discipline.

NOTICE

Please take notice, in accordance with the FJQC Rules, as revised, that you have twenty (20) days following service of this notice to file a written answer to these charges. The original of your response and all subsequent pleadings must be filed with the Clerk of the Florida Supreme Court, in accordance with the Court's requirements, you must simultaneously file a

DOS formatted three and one-half (3 1/2") diskette in Word Perfect 5.1 (or higher) format.

Copies of your response should be served on the undersigned Special Counsel and all persons (other than your counsel) listed in the Certificate of Service below.

Dated this ____ day of September, 2005.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by United States Mail this ____ day of September, 2005 to:

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Special Counsel